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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/875,532	06/06/2001	Christopher G. Dixon	PA-5253-RFB	6953

9896 7590 07/09/2004

COOK GROUP PATENT OFFICE  
P.O. BOX 2269  
BLOOMINGTON, IN 47402

EXAMINER

THANH, LOAN H

ART UNIT	PAPER NUMBER
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3763

DATE MAILED: 07/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

as

# Office Action Summary

Application No.

09/875,532

Applicant(s)

DIXON ET AL.

Examiner

LoAn H. Thanh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 19 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 6,7,12,13 and 18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) 17,19 and 20 is/are allowed.
- 6) ☒ Claim(s) 1-3,5,8,10 and 14-16 is/are rejected.
- 7) ☒ Claim(s) 4,9,11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Response to Amendment***

The specification objection was cited in the office action on page 2 under the heading specification objection as repeated below. It is a simple note to applicant to correct any minor errors that applicant may wish to correct. If it appears that no minor errors are present, the objection will be withdrawn.

The rejection under 35 USC 112, 2<sup>nd</sup> paragraph has been withdrawn in view of applicant's amendment filed 04/19/04.

### ***Specification***

The specification has been checked, however it has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3,5 and 14-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Sams (U.S. Patent No. 4,865,591).

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Sams discloses a syringe comprising a chamber 2, a plunger 5,25 movably axially with respect to the chamber, a connector 20 or distal portion element of the syringe and a seal member 4 which is interpreted in the broadest sense as an o-ring.

Claims 1-3,5,8,10 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Box et al. (U.S. Patent No. 4,832,692).

Box et al. disclose a syringe comprising a chamber, a plunger 60 movably axially with respect to the chamber, a connector 15 and a seal member 56 in circumferential o-ring seats 55.

### ***Response to Arguments***

Applicant's arguments filed 04/19/04 have been fully considered but they are not persuasive. Applicant asserts that the Examiner has not explained how or asserted that the prior art reference discloses a viscoselective high pressure seal and has failed to make a prima facie showing. The Examiner is not in agreement with applicant as the Examiner has explained in a statement on page 4 of the office action. Applicant has only structurally claimed a syringe having a chamber, a connector and a seal in independent claim 1 or a syringe having a chamber, an actuator and a connector with an advancement mechanism in independent claim 14. *Applicant is arguing more narrow than claimed.* The claims are directed to a device which has minimal structural limitations claimed. Applicant is reminded that the claims are interpreted in light of the specification. However, the limitations of the specification are not read into the claims. Also the claims are broadly interpreted. Further, applicant's specification discloses a combination of elements which produce a viscoselective high pressure seal to provide

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for sealing against viscous fluid and not seal against air. Those structural limitations are not claimed.

### ***Allowable Subject Matter***

Claims 4,9,11 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 17,19-20 are allowable since the prior art of record fails to teach or render obvious a syringe in combination with all the elements and further comprising at least one aperture which extends longitudinal within the plunger tip portion from distally of the seal member to proximally passing under the seal member wherein the aperture is sufficiently small to inhibit passage of viscous material however also for defining an air escape vent.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

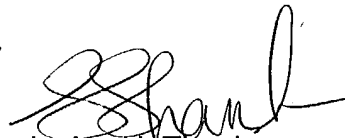
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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LoAn H. Thanh whose telephone number is (703) 305-0038. The examiner can normally be reached on Mon. - Fri. (First Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on (703) 308-3552. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



LoAn H. Thanh  
Primary Examiner  
Art Unit 3763

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